

HOUSE BILL NO. 631

INTRODUCED BY K. GILLAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN EDUCATION TRUST FUND WITHIN THE COAL TAX TRUST FUND; ALLOCATING \$100 MILLION TO THE EDUCATION TRUST FUND; PROVIDING THAT 90 PERCENT OF THE INTEREST AND EARNINGS OF THE EDUCATION TRUST FUND BE USED TO FUND THE BASIC AND PER-ANB ENTITLEMENTS AND THE OTHER 10 PERCENT OF THE INTEREST AND EARNINGS BE DEPOSITED IN THE EDUCATION TRUST FUND; USING THE COAL FUNDS TO INCREASE THE TOTAL PER-ANB AND BASIC ENTITLEMENTS FOR PUBLIC SCHOOLS FOR SCHOOL FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2001; INCREASING THE BASIC ENTITLEMENT FOR AN ELEMENTARY SCHOOL DISTRICT OR A K-12 DISTRICT ELEMENTARY PROGRAM TO \$18,818 FOR SCHOOL FISCAL YEAR 2002 AND TO \$19,383 FOR SUCCEEDING SCHOOL FISCAL YEARS; INCREASING THE BASIC ENTITLEMENT FOR A HIGH SCHOOL DISTRICT TO \$209,090 FOR SCHOOL FISCAL YEAR 2002 AND TO \$215,363 FOR SUCCEEDING SCHOOL FISCAL YEARS; INCREASING THE TOTAL PER-ANB ENTITLEMENT FOR AN ELEMENTARY SCHOOL DISTRICT OR A K-12 DISTRICT ELEMENTARY PROGRAM TO \$3,819 FOR SCHOOL FISCAL YEAR 2002 AND TO \$3,934 FOR SUCCEEDING SCHOOL FISCAL YEARS; INCREASING THE TOTAL PER-ANB FOR A HIGH SCHOOL DISTRICT OR A K-12 DISTRICT HIGH SCHOOL PROGRAM TO \$5,090 FOR SCHOOL FISCAL YEAR 2002 AND TO \$5,243 FOR SUCCEEDING SCHOOL FISCAL YEARS; AMENDING SECTIONS 17-5-703, 17-6-308, AND 20-9-306, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-5-703, MCA, is amended to read:

"17-5-703. (Temporary) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

- (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;
- (b) a treasure state endowment fund;
- (c) a treasure state endowment regional water system fund;

1 (d) a coal severance tax permanent fund;

2 (e) a coal severance tax income fund; ~~and~~

3 (f) an education trust fund; and

4 ~~(f)(g)~~ a coal severance tax school bond contingency loan fund.

5 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet
6 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next
7 12 months and retain that amount in the coal severance tax bond fund.

8 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
9 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

10 (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by
11 state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided
12 in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond
13 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is
14 specified in subsection (2) to be retained in the fund.

15 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless
16 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as
17 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the
18 next following 12 months.

19 (4) (a) ~~Beginning July 1, 1993, and ending~~ Until June 30, 2013, the state treasurer shall quarterly
20 transfer to the treasure state endowment fund 75% of the amount in the coal severance tax bond fund
21 in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of
22 amounts that are transferred pursuant to subsection (3).

23 (b) ~~Beginning July 1, 1999, and ending~~ Until June 30, 2013, the state treasurer shall quarterly
24 transfer to the treasure state endowment regional water system fund 25% of the amount in the coal
25 severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the
26 fund and in excess of amounts that are transferred pursuant to subsection (3).

27 (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the
28 treasure state endowment special revenue account the amount of earnings required to meet the obligations
29 of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to
30 the treasure state endowment special revenue account must be retained in the treasure state endowment

1 fund.

2 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water
3 system fund to the treasure state endowment regional water system special revenue account the amount
4 of earnings required to meet the obligations of the state that are payable from the account for regional
5 water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment
6 regional water system special revenue account must be retained in the treasure state endowment regional
7 water system fund.

8 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in
9 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
10 deposited in the coal severance tax permanent fund. (Terminates June 30, 2013--sec. 6, Ch. 495, L.
11 1999.)

12 **17-5-703. (Effective July 1, 2013) Coal severance tax trust funds.** (1) The trust established under
13 Article IX, section 5, of the Montana constitution is composed of the following funds:

14 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
15 severance tax must be deposited;

16 (b) a treasure state endowment fund;

17 (c) a coal severance tax permanent fund;

18 (d) a coal severance tax income fund; ~~and~~

19 (e) an education trust fund; and

20 ~~(e)(f)~~ a coal severance tax school bond contingency loan fund.

21 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet
22 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next
23 12 months and retain that amount in the coal severance tax bond fund.

24 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
25 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

26 (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by
27 state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided
28 in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond
29 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is
30 specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

~~(4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).~~

~~————(b)~~ The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

Section 2. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university

1 system. The board is the successor in interest to all agreements, contracts, loans, notes, or other
2 instruments entered into by the Montana board of science and technology development as part of the seed
3 capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other
4 instruments funded with coal tax permanent trust funds. The board shall administer the agreements,
5 contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. Until the
6 department makes a loan pursuant to the provisions of part 5 of this chapter, the \$915,000 in funds under
7 its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans made
8 pursuant to part 5 of this chapter are repaid, the board shall deposit the proceeds or loans made from the
9 coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back
10 with 7% interest. On July 1, 2001, the board shall transfer \$100 million from the coal severance tax
11 permanent fund to the education trust fund. The board shall deposit 10% of the interest and earnings on
12 the education trust fund in the fund and shall deposit the remaining 90% of the interest and earnings in
13 a state special revenue fund account to be used for funding the basic and total per-ANB entitlements as
14 provided in Title 20, chapter 9, part 3.

15 (4) The board shall allow the Montana health facility authority to administer \$15 million of the
16 permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the
17 provisions of Title 90, chapter 7, the funds under its administration must be invested by the board
18 pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are
19 repaid, the principal and interest payments on the loans must be deposited in the coal severance tax
20 permanent fund until all principal and interest have been repaid. The board and the authority shall calculate
21 the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount
22 administered under this subsection.

23 (5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance.
24 The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit
25 corporations.

26 (6) All repayments of proceeds pursuant to subsection (3) of investments made from the coal
27 severance tax trust fund must be deposited in the coal severance tax permanent fund."
28

29 **Section 3.** Section 20-9-306, MCA, is amended to read:

30 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the

1 following definitions apply:

2 (1) "BASE" means base amount for school equity.

3 (2) "BASE aid" means:

4 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement
5 for the general fund budget of a district; and

6 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic
7 entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a
8 district, and up to 40% of the special education allowable cost payment.

9 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of
10 the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education
11 allowable cost payment.

12 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which
13 may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366
14 through 20-9-369.

15 (5) "BASE funding program" means the state program for the equitable distribution of the state's
16 share of the cost of Montana's basic system of public elementary schools and high schools, through
17 county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in
18 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as
19 provided in 20-9-321.

20 (6) "Basic entitlement" means:

21 (a) ~~\$206,000~~ \$209,090 for each high school district;

22 (b) ~~\$18,540~~ \$18,818 for each elementary school district or K-12 district elementary program
23 without an approved and accredited junior high school or middle school; and

24 (c) the prorated entitlement for each elementary school district or K-12 district elementary program
25 with an approved and accredited junior high school or middle school, calculated as follows:

26 (i) ~~\$18,540~~ \$18,818 times the ratio of the ANB for kindergarten through grade 6 to the total ANB
27 of kindergarten through grade 8; plus

28 (ii) ~~\$206,000~~ \$209,090 times the ratio of the ANB for grades 7 and 8 to the total ANB of
29 kindergarten through grade 8.

30 (7) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB

1 entitlement for the general fund budget of a district and funded with state and county equalization aid.

2 (8) "Maximum general fund budget" means a district's general fund budget amount calculated
3 from the basic entitlement for the district, the total per-ANB entitlement for the district, and up to 153%
4 of special education allowable cost payments.

5 (9) "Over-BASE budget levy" means the district levy in support of any general fund amount
6 budgeted that is above the BASE budget and below the maximum general fund budget for a district.

7 (10) "Total per-ANB entitlement" means the district entitlement resulting from the following
8 calculations:

9 (a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,015~~
10 \$5,090 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the
11 district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement
12 as the 800th ANB;

13 (b) for an elementary school district or a K-12 district elementary program without an approved
14 and accredited junior high school or middle school, a maximum rate of ~~\$3,763~~ \$3,819 for the first ANB
15 is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000
16 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB;
17 and

18 (c) for an elementary school district or a K-12 district elementary program with an approved and
19 accredited junior high school or middle school, the sum of:

20 (i) a maximum rate of ~~\$3,763~~ \$3,819 for the first ANB for kindergarten through grade 6 is
21 decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB
22 in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

23 (ii) a maximum rate of ~~\$5,015~~ \$5,090 for the first ANB for grades 7 and 8 is decreased at the rate
24 of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in
25 excess of 800 receiving the same amount of entitlement as the 800th ANB."

26

27 **Section 4.** Section 20-9-306, MCA, is amended to read:

28 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
29 following definitions apply:

30 (1) "BASE" means base amount for school equity.

1 (2) "BASE aid" means:

2 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement
3 for the general fund budget of a district; and

4 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic
5 entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a
6 district, and up to 40% of the special education allowable cost payment.

7 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of
8 the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education
9 allowable cost payment.

10 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which
11 may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366
12 through 20-9-369.

13 (5) "BASE funding program" means the state program for the equitable distribution of the state's
14 share of the cost of Montana's basic system of public elementary schools and high schools, through
15 county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in
16 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as
17 provided in 20-9-321.

18 (6) "Basic entitlement" means:

19 (a) ~~\$206,000~~ \$215,363 for each high school district;

20 (b) ~~\$18,540~~ \$19,383 for each elementary school district or K-12 district elementary program
21 without an approved and accredited junior high school or middle school; and

22 (c) the prorated entitlement for each elementary school district or K-12 district elementary program
23 with an approved and accredited junior high school or middle school, calculated as follows:

24 (i) ~~\$18,540~~ \$19,383 times the ratio of the ANB for kindergarten through grade 6 to the total ANB
25 of kindergarten through grade 8; plus

26 (ii) ~~\$206,000~~ \$215,363 times the ratio of the ANB for grades 7 and 8 to the total ANB of
27 kindergarten through grade 8.

28 (7) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB
29 entitlement for the general fund budget of a district and funded with state and county equalization aid.

30 (8) "Maximum general fund budget" means a district's general fund budget amount calculated

1 from the basic entitlement for the district, the total per-ANB entitlement for the district, and up to 153%
2 of special education allowable cost payments.

3 (9) "Over-BASE budget levy" means the district levy in support of any general fund amount
4 budgeted that is above the BASE budget and below the maximum general fund budget for a district.

5 (10) "Total per-ANB entitlement" means the district entitlement resulting from the following
6 calculations:

7 (a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,015~~
8 \$5,243 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the
9 district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement
10 as the 800th ANB;

11 (b) for an elementary school district or a K-12 district elementary program without an approved
12 and accredited junior high school or middle school, a maximum rate of ~~\$3,763~~ \$3,934 for the first ANB
13 is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000
14 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB;
15 and

16 (c) for an elementary school district or a K-12 district elementary program with an approved and
17 accredited junior high school or middle school, the sum of:

18 (i) a maximum rate of ~~\$3,763~~ \$3,934 for the first ANB for kindergarten through grade 6 is
19 decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB
20 in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

21 (ii) a maximum rate of ~~\$5,015~~ \$5,243 for the first ANB for grades 7 and 8 is decreased at the rate
22 of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in
23 excess of 800 receiving the same amount of entitlement as the 800th ANB."

24

25 **NEW SECTION. Section 5. Three-fourths vote required.** Because [section 2] transfers money from
26 the coal severance trust fund and because [section 1] creates a subfund in the coal severance tax trust
27 fund, Article IX, section 5, of the Montana constitution, as interpreted by the Montana supreme court in
28 *Montanans for the Coal Trust v. State*, requires a vote of three-fourths of the members of each house of
29 the legislature for passage.

30

1 NEW SECTION. **Section 6. Effective dates -- applicability.** (1) Except as provided in subsection
2 (2), [this act] is effective July 1, 2001, and applies to school budgets for the school fiscal year beginning
3 July 1, 2001.

4 (2) [Section 4] is effective July 1, 2002, and applies to school budgets for school fiscal years
5 beginning on or after July 1, 2002.

6

7 NEW SECTION. **Section 7. Termination.** [Section 3] terminates June 30, 2002.

8 - END -